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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,459	03/01/2004	Warren B. Cope	2673	9953

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EXAMINER	
ZENATI, AMAL S	

ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/790,459	COPE, WARREN B.	
	Examiner	Art Unit	
	AMAL ZENATI	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9,11-17,19-26 and 28-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9, and 11-17, 19-26, and 28-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Consider **Claims 1-9, 16-17, 19-26, and 33-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Elsey et al (6,845,155 B2; hereinafter Elsey)** in view of (**"Midwest Region: primer for Local Number Portability," Issue 2, p.1-31, 7/27/1997)**

Consider **claims 1 and 19, Calhoun** clearly shows and discloses a method and a system of operating a communication system comprising: programming a first switch to terminate calls directed to at least one phone number (a predetermined telephone number) (col. 9, line 35-40); establishing a disaster recovery plan to terminate the at least one phone number at a second switch in response to the occurrence of a predetermined event (col. 3, line 5-7); in response to the occurrence of the predetermined event, programming a local copy of to direct communications for the at least one phone number to the second switch (col. 9, lines 35-65); wherein, all the phone numbers actively terminated by the first switch are ported to the second switch (col. 9, lines 35-65); and wherein the second switch is located in a different geographic area than the first switch (switching facility 1009 in second communication network

1006); but **Elsey** does not specifically state that the (call routing server 108) was a *local number portability database (LNP).*

In the same field of endeavor, **("Midwest Region: primer for local Number Portability," Issue 2, p.1-31, 7/27/1997)** clearly discloses that the Federal Communications Commission (FCC's) requires all Local Service Providers using database method for number portability by December 31, 1998 (page 6, lines 1-8) (there are three types of LNP, the second one is the Geographic Portability allows the end user to change from one geographic area to another Location Routing Number LRN) (page 4, lines 10-12; and lines 20-31); As a result, using *(LNP)* database is well known in the art and it was required by (FCC's); (see the figure on page 12 of **"Midwest Region: primer for local Number Portability," Issue 2, p.1-31, 7/27/1997)**

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply (LNP) database and the three types of LNP as taught by **"Midwest Region: primer for local Number Portability"** in **Elsey**, in order to comply the regulation for using *(LNP)* as required by (FCC's).

Consider **claims 2, 3, and 20, Elsey and Midwest Region** clearly show the method and the communication system, where the second switch is programmed to terminate calls to the at least one phone number before the occurrence of the predetermined event and where the second switch is activated to terminate calls to the at least one phone number after the occurrence of the predetermined event (Elsey: col. 9, lines 35-65).

Consider **claim 4, 5, 21, and 22, Elsey and Midwest Region** clearly show the method and the communication system, where the local copy of the local number portability database directs communications for the at least one phone number to the first switch before the occurrence of the

predetermined event; and where the local copy of the local number portability database is queried whenever an on-net originating switch processes a call that will be terminated by on-net switch (Elsey: col. 9, lines 35-65).

Consider **claims 6, 7, 23, and 24, Elsey and Midwest Region** clearly show the method and the communication system, where the local copy of the local number portability database is queried whenever an on-net originating switch processes a call that will be terminated by on-net switch; and where the local of the local number portability database is queried when the request for a connection to an on-net switch comes from an off-net device (Elsey: col. 9, lines 35-65; and fig. 9).

Consider **claims 8, 9, 25, and 26, Elsey and Midwest Region** clearly show the method and the communication system, where the predetermined event is when the first switch becomes disabled (col. 7, line 23-24); and where the programming of the local number portability database to direct communications for the at least one phone number to the second switch occurs automatically with determination that the first switch is disabled (Elsey: col. 9, lines 35-65).

Consider **claims 16 and 33, Elsey and Midwest Region** clearly show the method and the communication system, where the communications for the at least one phone number is directed to the second switch by changing the location route number in the local number portability database (Elsey: col. 9, lines 35-65; and Midwest Region: page 4, lines 10-12; and lines 20-31).

Consider **claims 17 and 34, Elsey and Midwest Region** clearly show the method and the communication system, where the local number portability database is a local copy of the regional local number portability database and the local copy of the local number portability database is under the control of only 1 service provider (**Midwest Region**: page 4, lines 10-12; and lines 20-31).

3. Consider **Claims 11, 12, 28, and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Elsey et al (6,845,155 B2; hereinafter Elsey)** in view of (**"Midwest Region: primer for Local**

Number Portability," Issue 2, p.1-31, 7/27/1997) and further in view of **Ward (patent No.: US 6654,451 B1)**

Consider **claims 11 and 28, Elsey and Midwest Region** clearly show and disclose the claimed invention above but fail to specifically disclose the system, where the at least one phone number is a phone number resulting from the translation of a toll free phone number

In the same field of endeavor, **Ward** clearly discloses the system, where the at least one phone number is a phone number resulting from the translation of a toll free phone number (col. 3, lines 35-47).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use translation of a toll free phone number as taught by Ward in Calhoun and Midwest Region, in order to determine subscriber's terminating number (abstract).

Consider **claims 12 and 29, Elsey, Midwest Region, and Ward,** clearly show the method and the communication system, where the at least one phone number can also be dialed directly (Elsey: col. 9, line 35-40).

4. Consider **Claims 13, 14, 15, 30, 31 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Elsey et al (6,845,155 B2; hereinafter Elsey)** in view of **("Midwest Region: primer for Local Number Portability," Issue 2, p.1-31, 7/27/1997)** and further in view of **Gibson (patent No.: US 7,076,045 B1)**

Consider **claims 13 and 30, Elsey and Midwest Region** disclose the claimed invention above but fail to specifically disclose the method and the communication system, where the programming the local number portability database is done from *a web page*.

In the same field of endeavor, **Gibson** clearly discloses the system, the method and the communication system, where the programming the local number portability database is done from a web page (by using service Management System SMS) (col. 10, lines 26-43; and col. 11, lines 25-39).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a web page to program the local number portability database as taught by Gibson in Elsey and Midwest Region, in order to customize and execute call services (col. 10, lines 40-43).

Consider **claims 14 and 31, Elsey, Midwest Region, and Gibson** clearly show the method and the communication system, where the second switch is changed (ported, active, program) to terminate calls to the at least one phone number using the web page (Gibson: col. 11, lines 25-39).

Consider **claims 15 and 32, Elsey, Midwest Region, and Gibson** clearly show the method and the communication system, where the change made to the second switch is to activate the termination of pre-programmed numbers form the first switch (Elsey: col. 6, lines 35-667; and col. 10, lines 1-5).

Response to Arguments

The present Office Action is in response to Applicant's Pre-Brief Appeal filed on December 01, 2009. Claims **1-9, and 11-17, 19-26, and 28-34** are now pending in the present application.

Applicant's arguments with respect to claims **1-9, and 11-17, 19-26, and 28-34** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amal Zenati whose telephone number is 571- 270- 1947. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571- 272- 7499. The fax phone number for the organization where this application or proceeding is assigned is 571- 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/CURTIS KUNTZ/
Supervisory Patent Examiner, Art Unit 2614

/Amal Zenati/
Patent Examiner, Art Unit 2614

February 12, 2010